

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO *ex rel.* State Engineer,  
and THE UNITED STATES OF  
AMERICA

Plaintiffs

v.

RAMON ARAGON, *et al.*

Defendants

No. 69cv07941-JEC-ACE  
RIO CHAMA STREAM SYSTEM

Section 4, Rio El Rito Section

**ORDER GRANTING  
MOTION TO ENFORCE PARTIAL FINAL DECREE AND  
TO ENJOIN FURTHER DIVERSION OF WATER**

THIS MATTER is before the Court on the Community of El Rito Ditch Association's and Acequia Jaral's October 10, 2002 Motion to Enforce Partial Final Decree and to Enjoin Further Diversion of Water (Docket No. 6902). Movants appeared by and through their attorney Mary E. Humphrey; Respondent Rudy Martinez appeared by and through his attorney Ernest L. Padilla; and the State of New Mexico appeared by and through Special Assistant Attorney General Edward G. Newville.

The Court finds that the parties have agreed to the terms of the following order, as reflected by their signatures below.

IT IS THEREFORE ORDERED that:

1. Respondent shall consult with the Community of El Rito Ditch Association at the annual spring meeting with the eleven community acequias comprising the El Rito Ditch Association, and in any case, prior to any diversion of water from the

Rio El Rito by Respondent. Written notice of the annual spring meeting shall be given by the Rio El Rito Ditch Association to Respondent and other community and private ditch owners at least ten days prior to the meeting.

2. Respondent shall not divert water from the Rio El Rito absent consultation with and the approval of the El Rito Ditch Association. The Association shall not withhold its approval absent a good faith determination that there is insufficient water in the Rio El Rito to satisfy the duly adjudicated rights of all parciantes under the Acequia Jaral. Should the Rio El Rito Ditch Association determine there is sufficient water, the Rio El Rito Ditch Association shall promptly notify Respondent that diversion is at his discretion and that any prior permission requirement under this Order is suspended until further notice by the Rio El Rito Ditch Association.

3. In the event Respondent disagrees with any determination to withhold water made by the Association in accordance with the foregoing paragraph, Movants and Respondent shall make a good faith effort to resolve the disagreement by and through their duly authorized attorneys or representatives within 48 hours. Pending such negotiations the determination of the Association shall be controlling, and any diversion of water shall conform to that determination.

4. In the event Movants and Respondent are unable to resolve their disagreement in accordance with the foregoing paragraph, they shall consult with the Court-appointed Rio Chama Water Master within 48 hours for an independent determination. The determination of the Water Master shall be final and controlling, subject to review (if any) pursuant to Paragraph 5 herein.

5. The Court-appointed Rio Chama Water Master shall promptly file a brief report concerning his determination with the Court and at the same time shall forward a copy of his report to Movants and Respondent. Any party objecting to the determination of the Water Master shall file written objects with the Court within ten days of mailing of notice of the Water Master's report and shall request an immediate hearing to review his determination.

6. Respondent shall allow inspection of diversion works on his property by the El Rito Ditch Association, or its duly authorized representative(s), upon 24 hours notice from the Association.

7. The parties agree that for purposes of providing and accepting written notice under the provisions of this Order, notice shall be by first class mail at the following addresses:

El Rito Ditch Association  
c/o Jake Vigil, President  
P.O. Box 234  
El Rito, New Mexico 87530  
(505) 581-4712

Rudy Martinez  
P.O. Box 3905  
Espanola, New Mexico 87533  
(505) 581-4500

Stermon M. "Buck" Wells, Rio Chama Water Master  
Office of the State Engineer  
P.O. Box 25102  
Santa Fe, New Mexico 87504  
(505) 827-6120.

8. Nothing in this Order shall be construed to make a determination of the priority date of Respondent's ditch, which determination shall be made in the regular course of the adjudication proceedings. Nothing in this Order shall be construed to affect

the rights of any other water user not a party to this agreement. Movants shall not selectively enforce their senior priority status against Respondent and will confer in good faith with Respondent to ensure that the waters of the Rio El Rito stream system are distributed legally and equitably.

9. This Order shall remain in force and effect until further agreement of the parties, filed with the Court, or until further order of this Court.

/electronic signature/  
UNITED STATES DISTRICT JUDGE

Approved:

/electronic signature/  
SPECIAL MASTER VICKIE L. GABIN

Agreed as to form and substance:

(Telephonically approved)

Mary E. Humphrey  
Attorney for Movants

(Telephonically approved.)

Ernest L. Padilla  
Attorney for Respondent

(Telephonically approved.)\_\_\_\_\_

Edward G. Newville  
Special Assistant Attorney General  
Attorney for the State of New Mexico